1947

File No. O. Merchandise marks/47

Legal **DEPARTMENT**

A **BRANCH**

Subject:—

Opinions under the Indian Merchandise Marks Act 1889

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368-A.

C O N T E N T S.

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Sr. No.	Compilation No.	Subject.	Pages.
		Opinions under the Indian Merchandise Marks Act, ~~1947~~ 1889	
1.	On. 228_Confl. 24.5.47	Secs. 2 (3) and 7 Question whether the lab els used by M/S Gadffary Manners and Co. Ltd. on the "Anne French" clearing Milk manufactured by them for the Indian Market and for export would amount to false and trade description	1_2

AB
16-5-56

Office of the H.L.A.

It appears from page 7 ante that the Company had been using two kinds of labels- one for local consumption and the other for export. The label for local consumption is clearly a "false trade description" within the meaning of section 2(9) of the Indian Merchandise Marks Act, 1889. The other label for export clearly states that the article is produced in India and consequently it might be contended that the description contained therein namely"4 Old Bond Street London, W.I." meant the place of the head office of the Company. It is doubtful how the Court will construe it. Since the case in respect of the label for local consumption is clear, there is no objection to prosecuting the Company in respect of both ~~the~~ labels under section 7.

The proper person to lodge the complaints is the Director of Industries. He may be instructed to file the complaint in consultation with the Public Prosecutor. The question as to whether the Central Government or the Bombay Government should bear the costs of prosecution in such cases in not finally decided. The Political & Services Department may make a formal claim for costs in this case.

sd.H/-

Remembrancer of Legal Affairs.

H.H. to P. & S.D. No.328-Bufi. dated the 24th May 1917.